IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

Crl.Rev.Pet.No. 4184 of 2007()

CRA.321/2005 of ADDL. SESSIONS COURT, ALAPPUZHA
CC.785/2003 of JUDL.MAGISTRATE OF FIRST CLASS-II CHERTHALA

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REVN. PETITIONER: REVISION PETITIONER/ACCUSED:

LALAN, S/O. RAMAKRISHNAN,
AGED 27, KEIKKATTU VEEDU, WARD NO.4,
PERUMBALAM PANCHAYATH, CHERTHALA, ALAPPUZHA DIST.

BY ADV. SRI.PHILIP MATHAI

RESPONDENTS: RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.M.NAZAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 23/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P.No. 4184 of 2007

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Dated this the 23rd day of November, 2007

ORDER

Heard both sides.

2. The petitioner who is the accused in C.C.No.785/2003 on the file of the JFMC-II, Cherthala challenges the conviction entered and sentence passed by the courts below against him for an offence punishable under Section 324 IPC.

3. The case of the prosecution is that on 26.2.2000 at 7.30 p.m. on the pathway situated in front of the grocery shop of one Damodaran, the accused voluntarily caused hurt to PW1 by beating him on the belly with a soda bottle repeatedly four to five times and caused pain. When PW1 evaded, the accused hit on his back with soda bottle, and caused pain. Thereafter the soda bottle was broken by hitting it on a coconut tree and then the accused stabbed PW1 with the broken soda bottle and PW1 sustained a warding off injury on his right middle finger and fore finger. The accused has thereby committed the aforesaid offence.

4. On the side of the prosecution seven witnesses were

examined as PW1 to PW-7. Four documents were marked as Exts.P1 to P4. The learned Magistrate found the revision petitioner guilty and convicted him and sentenced him to undergo rigorous imprisonment for one year vide judgment dated 29.3.05. Aggrieved by the said conviction and sentence passed by the court below, the revision petitioner preferred an appeal as Crl.Appeal No.321/2005 before the Sessions Court, Alappuzha. The Additional Sessions Court as per judgment dated 9.3.06 confirmed the conviction and sentence against the revision petitioner. Hence this revision.

5. Even though the learned counsel appearing for the revision petitioner assailed the conviction against the revision petitioner on various grounds, in as much as the courts below have concurrently convicted him after a careful evaluation of evidence in the case, this Court sitting in revision will be loath to interfere with the said conviction which is accordingly confirmed.

6. What now survives for consideration is the question regarding the adequacy or otherwise of the sentence imposed. It is true that it was an improvoked attack by the revision petitioner on PW1. But the facts and circumstances of the case show that the revision petitioner does not deserve penal

servitude by way of incarceration. I am of the view that for the offences recorded against the revision petition, the imprisonment as already undergone by the revision petitioner from 11.11.07 and an appropriate compensation shall meet the ends of justice. Accordingly, the sentence imposed on the revision petitioner by the courts below is set aside and instead, he is sentenced to imprisonment already undergone by him since 11/11/07 and he is also directed to pay a sum of Rs.5,000/- (Rupees Five thousand only) as fine. Out of the fine amount an amount of Rs.4,500/- shall be paid to PW1 by way of compensation under Section 357(1) Cr.P.C. If the fine is not deposited within a period of 45 days from today, he shall suffer simple imprisonment for one month. The revision petitioner shall be released from prison forthwith unless his continued detention is warranted in any other case against him. His release shall, however, be subject to the fine as ordered above.

This Crl.R.P. is disposed of as above.

V. RAMKUMAR, JUDGE

sj

/True Copy/

P.A To Judge